



## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Rural Housing Service

### Rural Business-Cooperative Service

### 7 CFR Part 5001

[Docket No. RUS-19-Agency-0030]

RIN 0572-AC56

### OneRD Guaranteed Loan Regulation; Corrections

**AGENCY:** Rural Business-Cooperative Service, Rural Housing Service, Rural Utilities Service, Department of Agriculture (USDA).

**ACTION:** Final rule; correction and correcting amendments.

**SUMMARY:** On December 10, 2021, Rural Development's Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service, agencies of the United States Department of Agriculture (USDA), published a final rule with comment for the oneRD Guarantee Loan Program (oneRD). The final rule made necessary revisions to the policy and procedures that strengthened the oversight and management of the growing Community Facilities, Water and Waste Disposal, Business and Industry, and Rural Energy for America guarantee portfolios. The final rule had an omission of information in the preamble and contained errors in the amendatory language. This document corrects the final regulation.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Address all comments concerning this correction to Lauren Cusick, Regulations

Management Division, Rural Development Innovation Center, U.S. Department of Agriculture, 1400 Independence Ave., SW, Stop 1522, Washington, DC 20250; telephone (202) 720-1414; e-mail [lauren.cusick@usda.gov](mailto:lauren.cusick@usda.gov).

**FOR FURTHER INFORMATION CONTACT:** Lauren Cusick, Regulations Management Division, Rural Development Innovation Center, U.S. Department of Agriculture, 1400 Independence Ave., SW, Stop 1522, Washington, DC 20250; telephone (202) 720-1414; e-mail [lauren.cusick@usda.gov](mailto:lauren.cusick@usda.gov).

**SUPPLEMENTARY INFORMATION:** Rural Development’s Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service are issuing corrections to the final rule that published December 10, 2021, at 86 FR 70349 and to 7 CFR part 5001.

#### **List of Subjects in 7 CFR Part 5001**

Business and industry, Community facility, Energy efficiency improvement, Loan programs, Renewable energy, Rural areas, Rural development, Water and waste disposal.

In FR Doc. 2021-26160, appearing on page 70349 in the Federal Register of December 10, 2021, make the following correction:

#### **§5001.452 [Corrected]**

1. On page 70358, in the second column, Instruction 22 for §5001.452, is corrected by removing the phrase “and adding paragraph (b)(i)(iii)(L)(3)”.

For the reasons discussed in the preamble, 7 CFR part 5001 is corrected by making the following correcting amendments:

#### **PART 5001 – GUARANTEED LOANS**

1. The authority citation for part 5001 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1926(a); 7 U.S.C. 1932(a); and 7 U.S.C. 8107.

2. Amend § 5001.141 by revising paragraph (a)(2) to read as follows:

**§ 5001.141 New markets tax credits.**

\* \* \* \* \*

(a) \* \* \*

(2) The provisions of § 5001.127(f) notwithstanding, a lender that is a CDE or sub-CDE may have an ownership interest in the borrower provided that each condition specified in paragraphs (a)(2)(i) through (iii) of this section is met.

(i) The lender does not have an ownership interest in the borrower prior to the application.

(ii) The lender does not take a controlling interest in the borrower.

(iii) The lender does not provide equity or take an ownership interest in a borrower at a level that would result in the lender owning 20 percent or more interest in the borrower.

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3. Amend § 5001.202 by revising paragraph (b)(5) to read as follows:

**§ 5001.202 Lender's credit evaluation.**

\* \* \* \* \*

(b) \* \* \*

(5) Conditions. This paragraph (b)(5) refers to the general business environment, including the regulatory environment affecting the business or industry, and status of the Borrower's industry. Consideration will be given to items listed in paragraphs (b)(5)(i) through (ix) of this section and when applicable the lender should submit supporting documentation (e.g., feasibility study, market study, preliminary architectural or engineering reports, etc.) in accordance with §§ 5001.304 through 5001.307:

(i) Availability and depth of resource/feedstock market, strength and duration of purchase agreements and availability of substitutes;

- (ii) Analysis of current and future market potential and off-take agreements, competition, type of project (service, product, or commodity based);
- (iii) Energy infrastructure, availability and dependability, transportation and other infrastructure, and environmental considerations;
- (iv) Technical feasibility including demonstrated performance of the technology and integrated processing equipment and systems, developer system performance guarantees, or technology insurance;
- (v) Complexity of construction and completion, terms of construction contracts, experience and financial strength of the construction contractor or engineering, procurement, and construction (EPC) contractor;
- (vi) Contracts and intellectual property rights, licenses, permits, and state and local regulations;
- (vii) Creditworthiness of any counterparties, as applicable;
- (viii) Industry-related public policy issues; and
- (ix) Other criteria that the lender or Agency deems relevant to the project.

\* \* \* \* \*

4. Amend § 5001.204 by revising paragraph (b) to read as follows:

**§ 5001.204 Personal, partnership, and corporate guarantees.**

\* \* \* \* \*

(b) When warranted by an Agency assessment of potential financial risk, the Agency may require the following:

- (1) Guarantees to be secured;
- (2) Guarantees from any person or entity owning less than a 20-percent Interest or membership in the borrower; and
- (3) Guarantees from persons whose ownership Interest in the borrower is held indirectly through intermediate or affiliated entities.

\* \* \* \* \*

**§ 5001.451 [Amended]**

5. Amend § 5001.451 by redesignating the second paragraph (b)(3)(xiii) and paragraph (b)(3)(xiv) as paragraphs (b)(3)(xiv) and (xv), respectively.

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**Justin Maxson,**

Deputy Under Secretary,  
Rural Development.

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